

SECOND REGULAR SESSION

SENATE BILL NO. 696

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SIFTON.

Pre-filed December 1, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4686S.011

AN ACT

To repeal sections 516.371 and 537.046, RSMo, section 556.036 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 556.036 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, section 556.037 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 556.037 as enacted by house bill no. 215, ninety-seventh general assembly, first regular session, and to enact in lieu thereof four new sections relating to statutes of limitations for certain offenses against a child, with existing penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 516.371 and 537.046, RSMo, section 556.036 as
2 enacted by senate bill no. 491, ninety-seventh general assembly, second regular
3 session, section 556.036 as enacted by house bill no. 215, ninety-seventh general
4 assembly, first regular session, section 556.037 as enacted by senate bill no. 491,
5 ninety-seventh general assembly, second regular session, and section 556.037 as
6 enacted by house bill no. 215, ninety-seventh general assembly, first regular
7 session, are repealed and four new sections enacted in lieu thereof, to be known
8 as sections 516.371, 537.046, 556.036, and 556.037, to read as follows:

516.371. Notwithstanding any provision of law to the contrary, there shall
2 be [a ten-year] **no** statute of limitation on any action for damages for personal
3 injury caused to an individual by a person within the third degree of affinity or
4 consanguinity who subjects such individual to sexual contact, as defined in
5 section 566.010.

537.046. 1. As used in this section, the following terms mean:

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2 (1) "Childhood sexual abuse", any act committed by the defendant against
3 the plaintiff which act occurred when the plaintiff was under the age of eighteen
4 years and which act would have been a violation of section 566.030, 566.040,
5 566.050, 566.060, 566.070, 566.080, 566.090, 566.100, 566.110, or 566.120, or
6 section 568.020;

7 (2) "Injury" or "illness", either a physical injury or illness or a
8 psychological injury or illness. A psychological injury or illness need not be
9 accompanied by physical injury or illness.

10 2. Any action to recover damages from injury or illness caused by
11 childhood sexual abuse in an action brought pursuant to this section [shall be
12 commenced within ten years of the plaintiff attaining the age of twenty-one or
13 within three years of the date the plaintiff discovers, or reasonably should have
14 discovered, that the injury or illness was caused by childhood sexual abuse,
15 whichever later occurs] **may be commenced at any time.**

16 3. This section shall apply to any action commenced on or after August 28,
17 2004, including any action which would have been barred by the application of
18 the statute of limitation applicable prior to that date.

556.036. 1. A prosecution for murder, rape in the first degree, forcible
2 rape, attempted rape in the first degree, attempted forcible rape, sodomy in the
3 first degree, forcible sodomy, attempted sodomy in the first degree, attempted
4 forcible sodomy, **abuse or neglect of a child**, or any class A felony may be
5 commenced at any time.

6 2. Except as otherwise provided in this section, prosecutions for other
7 offenses must be commenced within the following periods of limitation:

8 (1) For any felony, three years, except as provided in subdivision (4) of
9 this subsection;

10 (2) For any misdemeanor, one year;

11 (3) For any infraction, six months;

12 (4) For any violation of section 569.040, when classified as a class B
13 felony, or any violation of section 569.050 or 569.055, five years.

14 3. If the period prescribed in subsection 2 of this section has expired, a
15 prosecution may nevertheless be commenced for:

16 (1) Any offense a material element of which is either fraud or a breach of
17 fiduciary obligation within one year after discovery of the offense by an aggrieved
18 party or by a person who has a legal duty to represent an aggrieved party and
19 who is himself or herself not a party to the offense, but in no case shall this

20 provision extend the period of limitation by more than three years. As used in
21 this subdivision, the term "person who has a legal duty to represent an aggrieved
22 party" shall mean the attorney general or the prosecuting or circuit attorney
23 having jurisdiction pursuant to section 407.553, for purposes of offenses
24 committed pursuant to sections 407.511 to 407.556; and

25 (2) Any offense based upon misconduct in office by a public officer or
26 employee at any time when the person is in public office or employment or within
27 two years thereafter, but in no case shall this provision extend the period of
28 limitation by more than three years; and

29 (3) Any offense based upon an intentional and willful fraudulent claim of
30 child support arrearage to a public servant in the performance of his or her duties
31 within one year after discovery of the offense, but in no case shall this provision
32 extend the period of limitation by more than three years.

33 4. An offense is committed either when every element occurs, or, if a
34 legislative purpose to prohibit a continuing course of conduct plainly appears, at
35 the time when the course of conduct or the person's complicity therein is
36 terminated. Time starts to run on the day after the offense is committed.

37 5. A prosecution is commenced for a misdemeanor or infraction when the
38 information is filed and for a felony when the complaint or indictment is filed.

39 6. The period of limitation does not run:

40 (1) During any time when the accused is absent from the state, but in no
41 case shall this provision extend the period of limitation otherwise applicable by
42 more than three years; or

43 (2) During any time when the accused is concealing himself from justice
44 either within or without this state; or

45 (3) During any time when a prosecution against the accused for the
46 offense is pending in this state; or

47 (4) During any time when the accused is found to lack mental fitness to
48 proceed pursuant to section 552.020.

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2 rape, attempted rape in the first degree, attempted forcible rape, sodomy in the
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46 offense is pending in this state; or

47 (4) During any time when the accused is found to lack mental fitness to
48 proceed pursuant to section 552.020.

556.037. Notwithstanding the provisions of section 556.036, prosecutions
2 for unlawful sexual offenses involving a person eighteen years of age or under
3 [must be commenced within thirty years after the victim reaches the age of
4 eighteen unless the prosecutions are for rape in the first degree, forcible rape,
5 attempted rape in the first degree, attempted forcible rape, sodomy in the first
6 degree, forcible sodomy, kidnapping, kidnapping in the first degree, attempted
7 sodomy in the first degree, or attempted forcible sodomy in which case such
8 prosecutions] may be commenced at any time.

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